

PROVIDENCE ECONOMIC DEVELOPMENT PARTNERSHIP, INC.

THURSDAY, JANUARY 15, 2015

DRAFT LOAN COMMITTEE MEETING MINUTES

A meeting of the Providence Economic Development Partnership, Inc. (PEDP) Loan Committee was held at the office of the Department of Planning and Development, 444 Westminster Street, Providence, Rhode Island, in the 1st Floor Conference Room on January 15, 2015. The Loan Committee meeting was called to order at 12:14 P.M, with Donald Gralnek presiding. Roll call of the members was conducted as well as of John J. Garrahy, Esq., PEDP legal counsel, Stuart MacDonald, PEDP consultant, and Thomas Hoagland, PEDP consultant.

MEMBERS IN ATTENDANCE

Members of the Loan Committee in attendance included Frank Benell, Doris Blanchard, Carmen Diaz-Jusino, Donald Gralnek and Daniel Murphy.

MEMBERS ABSENT

Members not in attendance were Renee Bailey.

STAFF MEMBERS IN ATTENDANCE

Staff members in attendance included: Stuart MacDonald, consultant, Department of Planning and Development (DPD) and PEDP; Kathy Cosentino, Gail McGowan and Arthur Speaks.

OTHERS IN ATTENDANCE

Others in attendance were John J. Garrahy, Esq., Moses Afonso Ryan, PEDP legal counsel; Brett Smiley, City of Providence Chief Operating Officer and Thomas Hoagland, PEDP contract underwriter.

Upon the meeting being called to order, Donald Gralnek recognized PEDP counsel, John Garrahy. Mr. Garrahy stated that there is an issue that there is supposed to be a minimum of seven (7) members of the committee and Gonzalo Cuervo has resigned, which just came to our attention this morning. In light of that, a quorum would have to be four (4) members, and we do have four (4) members, but we do not have a minimum of seven (7). Essentially there are two (2) factors he thinks are the reason why we should meet: 1) this board is only advisory to the full board and originally when that limitation was added to the by-laws it was more a board that acted; and 2) there is language in the by-laws that someone serves until a successor is appointed. In light of that, he suggests to the board that we go forward due to the relative limited agenda that we have and that for a quorum, we would be required to have four (4) members present as if there were seven (7) members on the board and that is his recommendation. Mr. Gralnek questioned if there was any objection to counsel's recommendation. There was none. The meeting proceeded.

MEETING MINUTES

The minutes of the November 13, 2014 PEDP Loan Committee meeting were submitted for review and approval. Upon a motion made by Carmen Diaz-Jusino and seconded by Frank Benell, it was voted to approve the minutes of the November 13, 2014 meeting. Motion passed by unanimous vote.

REPORT OF STUART MACDONALD, CONSULTANT

Stuart MacDonald stated that he is a consultant because he has left employment with the city. He is here once a week working with the Planning Department as long as the new administration and Mr. Smiley will have him. Thomas Hoagland took over the day-to-day responsibilities of the PEDP. Mr. MacDonald will still attend the meetings anyway. PEDP has been quiet. There are two (2) to (3) loans monthly, which are being presented today by Thomas Hoagland.

Mr. Gralnek introduced Brett Smiley, Chief Operating Officer (COO) of the City of Providence to the committee. Mr. Smiley stated that as COO, he oversees administration, operations and economic development. Mr. Gralnek introduced PEDP staff – Arthur Speaks, Gail McGowan and Kathy Cosentino to Mr. Smiley as well as John Garrahy, PEDP legal counsel and Stuart MacDonald, consultant.

NEW BUSINESS

The first agenda item entertained by the Loan Committee under New Business was the loan request of Walco Electric Company, Ellis S. Waldman, 303 Allens Avenue, Providence, Rhode Island, 02905, in the amount of \$350,000.00. Thomas Hoagland presented the request. Mr. Hoagland began by providing a brief history of the business and the recent economic issues experienced by the company. Mr. Hoagland indicated that an approval of this loan request would be subject to the submission of year-end financials. He expects the 2014 financials to show a break-even on a cash-flow basis. The PEDP loan is intended to replenish working capital and provide inventory. We have reviewed the loan with HUD, which has found it acceptable. HUD does not approve loans, but it meets the guidelines. Mr. Hoagland feels the company has been turned around and recommends approval. Mr. MacDonald stated that when the loan was presented to HUD, it looks at debt load. The \$3.8 million in debt that we will be behind is significant. Laura and Cedric [HUD] felt that these are the types of loans we should be providing. Collateral and related priorities were questioned and discussed. It was questioned whether the company's other entity could be added as a guarantor. Mr. Hoagland responded in the affirmative, but noted that he does not know what it adds. Mr. Garrahy stated that both of the PEDP loans to these entities should be cross-collateralized. Mr. Gralnek stated that there is an argument against that – the law of unintended consequences. Dolphin Measurements is the smaller company of the two and if Walco defaults, we will have no choice but to pursue Dolphin. Mr. Gralnek stated that we should work with them to straighten out their debt loads so that that it is more manageable.

Mr. Hoagland discussed the amortization schedule and stated that he met with Washington Trust who is taking a portion of their debt, \$1.3-1.5 million, and going to term it out on a five (5) year note with a twenty (20) year amortization. Washington Trust has asked if we would consider the same, at least for the first five (5) years. Mr. Hoagland asked the committee to amend the PEDP loan amortization schedule to a five (5) year term with a twenty (20) year amortization, basically secured by fixed assets. Mr. MacDonald noted real estate assets.

At 12:27 P.M., Doris Blanchard arrived at the meeting.

Mr. Gralnek stated that for a \$350,000.00 loan, a minimum of ten (10) new employees have to be created and questioned whether this would not be a problem with the business expanding. Mr. Hoagland responded in the negative, that he knows this, has discussed it, and has a note from him regarding the number and kinds of jobs he is creating.

It was noted that the committee was not opposed to the change in the amortization schedule but that the use of funds does not warrant twenty (20) years and the committee should be weary of the fact that at a bank it would be a five (5) year or ten (10) year term. We are falsifying cash flow and putting financial stress on the business as this puts them at a real point of pressure in five (5) years with the balloon payment due. Mr. MacDonald responded that we can extend the term. Mr. Gralnek stated that he agrees that we should be in lock-step with Washington Trust for five (5) years. We will be in the know and won't be surprised if anything happens.

Attorney Garrahy stated that the motion would be on the terms and conditions presented in the Loan Memorandum subject to the amendment that the amortization will be five (5) years with a twenty (20) year amortization. We are in discussion regarding cross-collateralization. A motion was made by Frank Benell to accept attorney Garrahy's motion. The motion was seconded by Daniel Murphy. Attorney Garrahy, questioned to be clear, whether the motion being made is with or without cross-collateralization. Mr. Garrahy noted that the committee suggested that it should be and the Mr. Gralnek suggested that it should be without. Mr. Benell indicated that the motion was without cross-collateralization. Motion passed upon unanimous vote. Approval of this loan request is subject to the submission of year-end financials for 2014. Mr. Gralnek indicated that the motion is approved 5-0.

Mr. Gralnek stated that he should have asked for people to identify themselves at the inception and requested that the roll call of the members be conducted at this time. Roll call was conducted of the members as well as Thomas Hoagland, PEDP consultant; Stuart MacDonald, PEDP consultant; and John J. Garrahy, PEDP legal counsel.

The next agenda item entertained by the Loan Committee was the loan request of VP Fitness, LLC, Joseph Depina, 10 Dorrance Street, Providence, Rhode Island, 02903, in the amount of \$200,000.00. Mr. Hoagland presented the loan request. Mr. Hoagland stated that this request was a little premature. The principal came in to Jim Bennett last week, who told him that he would do his best to make sure that this got to the Loan Committee this week. Mr. Hoagland and staff have not met with the principal yet. The transaction has changed a couple of times in terms of the amount and needs of the loan. Mr. Hoagland stated that the principal may have the opportunity to do a capital lease and questioned how that would impact our collateral position. Mr. Hoagland also stated that he has concerns that there are a lot of similar businesses – fitness operations and gyms – in the area that are all going in and out of business quickly. He would like to do some research as to why this one has legs. Mr. Hoagland recommended that the committee table this loan request and defer it to the next meeting. Questions were then asked of Mr. Hoagland.

The committee agreed that the market is completely saturated. The difference between this one and ones that have failed in the past would be his business plan. Staff should make sure that he understands the market and has a solid business plan and that he will not be a fly-by-night business. It is not really the market but demand. Mr. Hoagland responded that he has had success at the Marriott. The committee responded that there is minimal overhead and a lack of responsibility at the Marriott operation. The committee requested that that Mr. Hoagland have the applicant explain his use of funds and why he needs to bulk up with equipment this early. Mr. MacDonald stated that the principal has a lease for the space, but not for the equipment, which he is looking to possibly lease. It was questioned whether PEDP has restrictions on capital leases after the loan and it was requested that PEDP add to its loan documents that PEDP would have approval of such leases. Mr. MacDonald responded that PEDP would have a UCC filing on the equipment and any other filing would be behind PEDP's. The committee expressed that it would not think that a leasing company would agree to that. Mr. Hoagland added that he would not include the equipment in our collateral package. Upon a motion made by Doris Blanchard and seconded by Carmen Diaz-Jusino, it was voted to defer consideration of the loan request of VP Fitness, LLC until staff receives additional information that it can base a recommendation upon. Motion passed by unanimous vote.

The next agenda item was the report of loans/grants/programs/actions approved/taken by the Board of Directors, which there were none.

The next agenda item was the review of pending loans, which there were none. Mr. Hoagland noted that we did not post this matter but we are intending to submit to the Board of Directors the loan to Jamel MEP, LLC that was approved last October. The Borrower has asked that we clarify some issues with the involvement with Davis-Bacon and the allocation of the loan funds and transfer \$47,000.00 of the \$150,000.00 loan from construction to additional working capital. Attorney John Garrahy added that this is a loan that has already closed and that the \$47,000.00 that was allocated to construction costs is subject to the Davis-Bacon Act. Mr. Hoagland stated that PEDP was only going to fund the materials and not the labor costs, which complies with Davis-Bacon. Mr. MacDonald added that the principal is going to provide the labor costs. Mr. MacDonald also added that it is too cloudy so to clarify the disbursements, we will ask the board to change the allocation of the funds.

Mr. Smiley noted that under agenda items 4.b. and 4.c. there was no business.

EXISTING LOAN REQUESTS

The next agenda item entertained by the Loan Committee was the request of PEDP legal counsel relative to Deville's, Inc. formerly d/b/a Wicked Bean (out of business) for consideration of PEDP making a lien payment of the condominium association fees and adding the payment to the Borrower's loan. A foreclosure sale of the principal's condominium is scheduled on February 6, 2015. Attorney Garrahy presented the request. PEDP received notice from the condo association's lawyer that they are going to foreclose. Under Rhode Island General Laws, a condo lien is protected. Ours is in 2nd and 3rd and would not be protected. The business is out of business. Attorney Garrahy reviewed PEDP's collateral position on the real estate. The first loan is in the amount of \$180,000.00. The second loan is in the amount of \$25,000.00. It was questioned whether a recommendation would go from the Loan Committee to the Board of Directors to write-off this loan. Mr. MacDonald responded in the affirmative but that this matter is on the agenda to pay the condo liens. The committee questioned why we would put bad money after good.

The committee questioned whether the principal's first mortgage is behind in payments. Attorney Garrahy responded that we can request that information. The committee requested that information regarding the status of the taxes on the condo also be requested. It was questioned how we know the value of the condo is \$130,000.00. Attorney Garrahy and Mr. Hoagland responded that it a Zillow request was completed. Attorney Garrahy suggested that since we do not have all the facts before us, we would be out the \$3,000.00 before we can get paid. It was questioned if this board takes no action, does the Board of Directors have to accept that action. Attorney Garrahy responded that the Board of Directors can do whatever it chooses.

Mr. Gralnek noted that the committee could take one of two (2) actions at this time. One action would be to defer the matter and let staff generate more information and then vote to not fund the expense or the other action would be to cut to the chase and recommend no further monies be advanced. Attorney Garrahy stated that the committee can do one (1) motion – to act or not act. The question was raised regarding the increase to the loan between June and November 2010 and whether she was current at that time. Kathy Cosentino responded that there was no established payment history at the time of the loan modification due to the loan re-payment having not yet commenced at the time of the increase in the loan. Attorney Garrahy noted that the foreclosure sale is scheduled for February 6th, so the committee would have to take action. Doris Blanchard noted that she agreed with the second action stated by Mr. Gralnek. Attorney Garrahy stated that the motion would be to not take any action with respect to the foreclosure sale and to not advance any additional funds. The motion was made by Doris Blanchard and seconded by Frank Benell. Mr. Gralnek restated the motion and that it was made with the likely consequences understood. Motion passed by unanimous vote.

Mr. Gralnek questioned whether there was any additional business of Kathy Cosentino and attorney Garrahy. Both responded in the negative.

The committee suggested that we do not do any more advances, additional loan funds or loan modifications without a historical payment history of a Borrower. Mr. MacDonald responded that the by-laws have been changed to prevent staff from making loan approval, which is what this was.

A motion to adjourn was then made by Doris Blanchard and seconded by Frank Benell, and the meeting was adjourned at 12:56 P.M.